Applicant(s):   Anil V. Rao, Wayne R. Weilnau

Assignee: Dell USA, L.P.

Title: System and Method for Installing System Manufacturer Provided Software

Serial No.:   09/271,581   Filing Date: March 18, 1999

Examiner: Benjamin E. Lanier   Group Art Unit: 2132

Docket No.:   DC-01492   Customer No.:   33438

Austin, Texas
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PRE-APPEAL BRIEF REQUEST FOR REVIEW AND STATEMENT OF REASONS

Sir:

Applicant requests review of the Final Rejection in the above-identified application. No amendments are being filed with the request. This request is being filed with a Notice of Appeal. The following sets forth a succinct, concise, and focused set of arguments for which the review is being requested.

CLAIM STATUS

Claims 1, 4, 5, 8, 10, 12, 13, 16, 18, 20, 22, 23-28 stand rejected over Kubota, U.S. Patent No. 5,034,980 (Kubota), in view of Patterson, U.S. Patent No. 6,389,541. Claims 2, 11, 19 and 21 stand rejected over Kubota in view of Patterson and in view of Charabaszcz, U.S. Patent No. 6,363,497. Claim 3 stands rejected over Kubota in view of Patterson and Charabaszcz and further in view of Dollahite, U.S. Patent No. 5,748,877. Claims 6 and 14 stand rejected over Kubota in view of Patterson and further in view of Cooper, U.S. Patent No. 5,757,904. Claims 7 and 15 stand rejected over Kubota, in view of Patterson and further in view of Pearce, U.S. Patent No. 5,694,582. Claims 9 and 17 stand rejected over Kubota in view of Patterson and further in view of Saxena, U.S. Patent No. 6,259,449.

- 1 -

REMARKS

The following remarks provide applicants' position regarding how the independent claims distinguish over the art of record.

In the Examiner's Response to the arguments set forth in the Response filed on October 26, 2005, the Examiner set forth:

> Applicant's arguments filed 26 October 2005 have been fully considered but they are not persuasive. Applicant's arguments that the prior art does not disclose software being installed is after sale software provide by a computer system manufacturer after the sale of a computer system and that the deciphering of data is to ensure that the after sale software provided by the computer system manufacturer after sale of the computer system is installed only on a computer system manufactured by the computer system manufacturer is not persuasive because *it would be an inherent feature of this combination to have the installation procedure of the above combination occur after the sale of the computer system because Kubota discloses that the identification information/key is hardcoded in the microprocessor implemented in BIOS information at the time of manufacture.* Therefore, the software installation procedure disclosed in Kubota would occur after the computer system has been sold. If the software were to be installed before the sale of the computer system, the software would have been installed at the time of manufacture along with the hardcoding of the identification information/key in the microprocessor or implementation in BIOS information. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the computer software that is installed in the copy protection system of the combination disclosed by The Board because the manufacturer of the computer systems would keep their identification/keying information secret and would therefore themselves encrypt the software to be distributed to their computer systems for installation. Keeping their identification/keying information secret would help prevent users of the manufacturer's computer systems from mistakenly installing computer software provided by other manufacturers (Final Office Action, November 07, 2005 Pages 2 – 3, emphasis added).

However, this Response does not appreciate that or take into consideration that the after sale software is provided by the computer system manufacturer and that the after sale software is installed only on a computer system manufactured by the computer system manufacturer as substantially required by each independent claim. Applicants maintain that this feature is neither directly nor inherently disclosed by the cited references.

Kubota discloses a microprocessor which provides copy protection. The microprocessor includes an integrated decoding circuit having a unique cryptographic code for providing copy protection of protected computer software (Kubota, Col. 2, lines 62 – 65.) When a microprocessor is manufactured, a key associated with an ID of the microprocessor is embedded

into the decoder. (Kubota, Col 3, line 67 – Col. 4, line 1.) When copy protection of software is desired, the software is encrypted to function uniquely with the microprocessor. (Kubota, Abst.)

More specifically, Kubota sets forth:

> The integrated circuit microprocessor chip of the present invention has integrated within it a deciphering code and a decoding circuit to decode the cryptographically protected software. For each individual chip a unique key (or code) is embedded as part of the decoding circuit during the fabrication of the chip. This key operates to decipher the coded software. Computer software which is to be copy protected is cryptographically coded such that only a unique key can decipher the software. That is, the computer software is coded according to the key value of a particular chip and can operate properly only with the chip having that key. Therefore, there is a one-to-one relationship between a copy protected computer software and a given microprocessor.

> In operation, when the software is to be obtained by the computer user, the user must identify to the supplier of the software the identification of the user's specific microprocessor. An identification number (ID) is attributed to each microprocessor. Once the software provider is given an ID, the software supplier will then encrypt the software according to the code associated with that ID. Then this software is provided to the user. When the copy protected software is accessed by the appropriate microprocessor having that ID, the key provides the correct deciphering. However, if the key value is incorrect, indicating that the software is not intended for that microprocessor, then the correct deciphering cannon occur. (Kubota, Col., 3, lines, 22 – 50.)

Kubota discloses and relates solely to microprocessors. Kubota does not provide any disclosure relating to computer systems, much less to identifying a particular computer system manufacturer. Applicants respectfully submit that providing manufacturer specific identification information identifying a computer system manufacturer is patentably distinct from uniquely identifying a particular microprocessor as disclosed in Kubota. Accordingly, Kubota does not teach or suggest all of the claim limitations of the claimed invention. (See M.P.E.P. 2143.03.)

Patterson discloses a method for regulating access to digital content such as text, video and music. The content is stored as part of a compressed and encrypted data file at a client computer. The content is inaccessible to the user until a use authorization occurs. The data file is activated and locked to the particular client computer. The data file is not accessible without new authorization if the data file is transferred to another computer.

Kubota and Patterson do not provide any disclosure relating to computer systems, much less to identifying a particular computer system manufacturer. Applicants respectfully submit that providing manufacturer specific identification information identifying a computer system

manufacturer is patentably distinct from uniquely identifying a particular microprocessor as disclosed in Kubota. The deficiencies of Kubota are not realized with Patterson. As with Kubota, Patterson provides no disclosure relating to providing manufacturer specific information identifying a computer system manufacturer, as substantially required by claims 1, 10, 18, 20 and 22. Accordingly, claims 1, 10, 18, 20 and 22 are allowable over Kubota and Patterson.
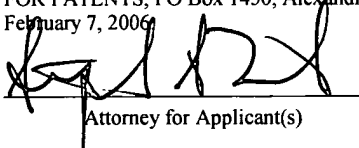
More specifically, Kubota, taken alone or in combination, does not teach or suggest a method of selectively *installing after sale software onto a computer system manufactured by a computer system manufacturer*, much less such a method which includes reading a configuration file that contains computer system information including *manufacturer specific identification information identifying the computer system manufacturer*, or using a key so as to ensure that the **after sale** software *provided by the computer system manufacturer after the sale of the computer system* is installed **only on a computer system manufactured by the computer system manufacturer**, all as required by independent claim 1 and substantially required by independent claim 23. Accordingly, claim 1 is allowable over Kubota. Claims 2 – 9 and 24 depend from claim 1 and are allowable for at least this reason.

Kubota, taken alone or in combination, does not teach or suggest *a computer system for selectively installing after sale software provided by a computer system manufacturer after sale of the computer system where the computer system is manufactured by the computer system manufacturer*, much less such a computer system which includes a computer program which is capable of reading a configuration file stored in the nonvolatile memory and determining an encrypted key from one or more bytes read from the configuration file and the encrypted key is capable of deciphering data stored on the nonvolatile storage device *so as to ensure that **the after sale software provided by the computer system manufacturer after sale of the computer system is installed only on a computer system manufactured by the computer system manufacturer*** and wherein one or more configuration files contains computer system information which computer system information includes manufacturer specific identification information identifying the computer system manufacturer, all as required by claim 10. Accordingly, claim 10 is allowable over Kubota. Claims 11 – 17 and 25 depend from claim 10 and are allowable for at least this reason.
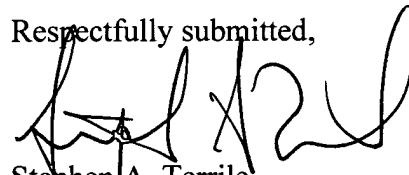
More specifically, Kubota and Patterson, taken alone or in combination, does not teach or suggest a method of *selectively installing after sale software provided by a computer system*

manufacturer after sale of the computer system onto a computer system manufactured by the computer system manufacturer, much less such a method which includes reading a configuration file that *contains computer system information which includes manufacturer specific identification information*, determining a key from one or more bytes from *the configuration file including the manufacturer specific information identifying the computer system manufacturer*, and storing the key in a registry file *so as to ensure that **the after sale software provided by the computer system manufacturer** after the sale of the computer system is installed **only on a computer system manufactured by the computer system manufacturer***, all as required by claim 18 and substantially required by claims 20 and 22. Accordingly, claims 18, 20 and 22 are allowable over Kubota and Patterson. Claims 19 and 26 depend from claim 18 and are allowable for at least this reason. Claims 21 and 27 depend from claim 20 and are allowable for at least this reason. Claim 28 depends from claim 22 and is allowable for at least this reason.

In view of the arguments set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, please telephone the undersigned.

I hereby certify that this correspondence is being is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, COMMISSIONER FOR PATENTS, PO Box 1450, Alexandria, VA 22313-1450, on February 7, 2006

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Attorney for Applicant(s)   Date of Signature

Respectfully submitted,

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